Welcome to a webinar on the USDA civil rights requirements for school nutrition programs.
USDA wants to ensure that child nutrition program operators are aware of potential civil rights concerns and how to effectively ensure that program benefits are made available to all students in a non-discriminatory manner.
Based on USDA’s aim to ensure equal access to program benefits, here are our objectives for today’s session. By the end of this webinar, you should be able to:

1. Identify four reasons why we should pay attention to civil rights. What is the importance of it?
2. Describe three best practices in program operations to ensure compliance with civil rights
3. Discuss two aspects of your specific job duties that deal with civil rights concerns
Our outline for the presentation is as follows:

First we will discuss public notification systems. This is the process by which SFAs notify potential applicants of the availability of meals.

Second we will discuss civil rights issues related to customer service practice. This could occur anywhere in the continuum of participation, from applicants turning in a free and reduced-price application to overt identification of meal status in the lunch line.

Third, we will cover the requirement to collect race and ethnicity data and why that information is collected.

Fourth, we will briefly touch on issues of accommodating children with special dietary needs. This is not a complete special dietary needs presentation, but will cover the topic from the lens of ensuring equal access.

Fifth, what should an SFA do if they receive a compliant alleging discrimination in the school nutrition programs from a student or parent?

Finally, we will discuss what an SFA should do if there are areas of noncompliance and how to handle reporting of compliance issues.
Slide 5
The federal protected classes for child nutrition programs are listed on the slide. Discrimination is defined as different treatment which makes a distinction of one person or group of persons from others; either intentionally, by neglect, or by actions or lack of actions based on the protected classes.

Can include:
-delaying or denying benefits/services to individual/group that other individuals/groups receive
-treating individuals/groups differently than others and putting them at a disadvantage

There are various laws that cover each of the federal protected classes.

For example National Origin - Title VI, Civil Rights Act of 1964
Sex - Title IX of Education Amendments of 1972
Disability - Section 504 and the ADA
Age - The Age Discrimination In Employment Act of 1967
Slide 6
A question you may have is, the USDA nondiscrimination statement has more classes than are listed on the previous slide. What is correct?

The federal civil rights statement pertains to several programs. USDA operates several nutrition programs, from Women, Infants and Children (WIC) to Supplemental Nutrition Assistance Program (SNAP) to child nutrition programs. Some of the other federal programs cover additional classes. Instead of issuing a separate nondiscrimination statement for different programs, they issue one that can be used for all.
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The next topic of discussion in our agenda is public notification systems. This will affect the administration side in terms of collecting free and reduced-price meal applications and site level staff who need to ensure placement of the And Justice for All Poster.
Slide 8
What is public notification and why do SFAs need to notify the public?

Simply put, it is a way of notifying the public that you are operating child nutrition programs. You may think, well that’s a given that we have a meal program. Not necessarily. Some schools, both nonpublic and public, have opted not to participate in the meal programs, although the vast majority of schools opt to participate. This is also a way to reach potential applicants and inform them about the program.
The following items are important aspects that are included under public notification. These items are addressed both through a public release and the And Justice for All poster.
Slide 10

The public release is a statement to the media that informs the public that your school is participating in the School Nutrition Programs, the income eligibility requirements and how to apply. The State Agency takes care of this for you by sending lists to various newspaper and media outlets across the state. It is up to the discretion of the media if they decide to publish the notification. There are no requirements for the SFA for the public release responsibilities.

The second requirement is important for administrative and site level staff to remember.
The And Justice for All poster must be posted in a publicly visible location at each site. Minnesota Department of Education (MDE) recommends that the poster be located in the school cafeteria so that participants see the connection between the poster and the meal programs.

The poster must be visible to all students during at least one of their meals. This means that if you offer breakfast in the classroom and lunch is served in a centralized location, you would only have to have the poster hung up in the centralized location (cafeteria) as long as the same students are receiving lunch and breakfast. If you offer the Afterschool snack to the same students who attend the school during the regular school day and have seen the poster in another meal service area, you would not be required to have the poster displayed in all locations in which the snack is served.

The 11x17 size is preferred whenever possible. For portable locations such as breakfast in the hallway, you may use a smaller table top version.
Obtaining “And Justice For All” Posters

- "And Justice for All" poster is available to download from the USDA website for temporary use (www.usda.gov/cr/justice.htm).

- The State Agency provides posters to schools free of charge.

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If you need additional And Justice for All posters, you can print temporary copies from the web address listed on the slide.

Contact MDE FNS to obtain the poster size versions.
Slide 13
So, why do we need a poster of Lady Liberty in the cafeteria? What is the point?

The poster contains several important elements, including the nondiscrimination statement, as well as contact information for USDA to file a complaint.

The nondiscrimination statement must not only be included on the And Justice for All poster, but also on all materials about the school nutrition programs that are disseminated to the public.

This statement was last updated by USDA in October 2014. The And Justice for All poster does not contain the most updated statement. For now, USDA has instructed us to use the current poster until the new ones are developed. You will be notified when a new poster is available.
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Here is a copy of the required non-discrimination statement. As you can see it is quite long.
Slide 15
If your material is too small to include the entire statement, the following shorter statement must be used.

Required Non-Discrimination Statement Language

If the material or document is too small to permit the full statement (above) to be included, the material MUST, at a minimum, include:

“This institution is an equal opportunity provider.”
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Either statement should be used exactly as is. Do not change the wording to fit your organization.

When developing materials, either statement used should be the same font size as the document created so that the statement is visible.

Note that in auditory presentations, such as public service announcements, the shortened version may also be used.
Slide 17

So, where is the nondiscrimination statement required? Any materials that mention the programs to the public, including the following noted on the slide.

**Not required to be printed on incentive items such as cups, buttons, magnets, pens, etc. due to impractical size**
On the topic of public notification and development of materials, etc. one additional item to note is the importance of conveying equal opportunity in messaging. Any graphics or pictorial representations should reflect the diversity of individuals that participate in the school nutrition programs.
Also, in developing written materials or speaking with potential program participants, it is important to use respectful language. Instead of saying, we accommodate disabled students by offering alternate meals. It would be better said as we accommodate students with a disability that affects the diet. Some of the other examples on the slide may be more obvious in terms of race and ethnicity. When in doubt, whenever possible, pass the materials through an individual that may be more familiar with the culture or situation to see what the preferred terminology is.
Scientific research has demonstrated that biases thought to be absent or extinguished remain as "mental residue" in most of us. Studies show people can be consciously committed to fairness, and deliberately work to behave without prejudice, yet still possess hidden negative prejudices or stereotypes.

"Implicit Association Tests" (IATs) can tap those hidden, or automatic, stereotypes and prejudices that circumvent conscious control. Project Implicit — a collaborative research effort between researchers at Harvard University, the University of Virginia, and University of Washington — offers dozens of such tests.

The tool may jumpstart our thinking about hidden biases: Where do they come from? How do they influence our actions? What can we do about them?

Take one or more of the tests to learn where your hidden biases lie.
Next, we’ll discuss customer service and nondiscrimination. Although we immediately think about equal and fair treatment in the lunch line, customer service could also be in the form of parents calling the nutrition office, or students stopping in to drop off a completed application.
In its most basic form nondiscriminatory customer service includes ensuring that all students are treated the same as you interact with them.

Some examples of this include not showing preference or discrimination in seating arrangements (such as separating students by gender for unnecessary reasons), approving some groups of student applications before another group and verifying a household for cause based on discriminatory practices.
Some Examples of Nondiscrimination include:

- Students of about the same age are given about the same time to eat.
- Students are English language learners are not required to sit at a “English language learner” table for meals.
- Boys are not seated at separate tables from girls (this is implied segregation and questionable unless done for disciplinary or legitimate reasons).

USDA recently issued a new memo regarding separation by gender in meal service areas. Refer to the USDA website memo SP 31-2015.
Meal Service

All students within the same grade grouping must be offered the same selection of menu items in the same amounts regardless of their eligibility, sex, national origin, race/color, etc., including when a school offers:

- A selection of more than one type of meal that is claimed for reimbursement
- A variety of foods and fluid milk for choice within the meal requirements

Examples:

Some more subtle methods of nondiscrimination may occur in the serving of leftovers. Do the high school football players always get the leftovers or more food in general? Are certain special food items saved for certain groups of students?

Boys and girls in the same grade should be offered the same food, in the same amounts.

Leftovers at the end of the lunch period should be offered to everyone (i.e. not just the boys, etc.)

Certain items are “saved” for all students, not just for specific students.
Meals should also not be denied as a result of disciplinary action, such as in school detention or suspension or failure to turn in homework by the required deadline.

The following are circumstances where meals may be denied:
Disciplinary actions that indirectly result in loss of meals (i.e. student is suspended and does not attend school for a number of days).
Schools are not required to serve children who receive reduced- or full-price meals but do not have money to pay, however:

It is recommended that schools establish policies to handle such situations and inform parents/students of limitations of policy.
Each school is free to decide whether to institute negative balance limits or provide alternative meals/food items for these students.
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So, what about nondiscrimination in some of the back of the house procedures?

Ensure that denied applications are not misrepresentative of the population you are serving.

Do not restrict any race or ethnicity groups from applying or participating.

Do not require that a student or household complete an application for educational benefits as a mandatory requirement for enrolling. It is a voluntary participation program. You can strongly encourage families to complete the application and offer incentives for completion, but ultimately if a household refuses to complete the application, that is their choice.
Customer service without discrimination also includes ensuring the confidentiality of information provided on free and reduced price applications.

Free and reduced price information should only be used for the school nutrition programs and other select education purposes, such as for Minnesota Automated Reporting Student System (MARSS) reporting.

A waiver is necessary from the household to release the information further. This would include notifying activities coordinators for reduced-price athletic fees, for example.
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The household waiver must inform the household of the items noted on the slide. Note that the waiver must clearly identify what the information will be used for. A generic catch all waiver may not be used. Specific programs and use should be noted.
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Overt identification should be considered in different situations beyond the application process.

This includes at the point of service where other students may see eligibility statuses on the cashier computer screen.

Or for example when special functions take place that require alternate meal service such as field trips and class parties, no overt identification of meal status should occur.

Examples: students raising hands, forms sent home that identify eligibility.
Nondiscriminatory customer service also comes into effect when considering students and households that may have Limited English Proficiency (LEP) which means: Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

There is a requirement to take reasonable steps to ensure that persons with limited English proficiency are given access to programs.
Factors to consider when determining “reasonable steps”

- Number and proportion of LEP persons encountered in eligible population.
- Frequency with which LEP individuals come in contact with program.
- Nature and importance of program, activity, or service.
- Resources available to the recipient/costs.

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So what are considered reasonable steps to take?

Think about the situation at hand:

The greater the number of individuals with LEP = the higher the need.

Will denial of service cause a serious or life-threatening implication for potential participants?

Accessibility of a translator for applications, etc.
Availability of materials in various languages.
One important aspect is to make information available in other language whenever possible. MDE and USDA offer several language translations of the applications for educational benefits. These include the template household letter and supplemental information.
As far as interpreters, remember that it is not a good practice to use children as interpreters.

Volunteers should understand certain ethical implications of data privacy, etc.

Visit lep.gov for more information on this topic.
A shortage of resources does not eliminate the translation requirement

Suggestions:

- **Share resources to save money:**
  - Use interpreter from another area
  - Train bilingual staff to be interpreters
  - Contact grassroots organizations to discuss translation or assistance from within the community

- **Language line phone services may be available for a subscription fee through your local telephone service provider.**

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A lack of resources does not mean the SFA does not need to provide reasonable accommodations. It may mean that some creative ideas need to be used such as sharing interpreters between programs or school districts or utilizing lower cost telephone translation services.
The next section we will discuss is racial ethnic data collection in the school nutrition programs.
So what is the point of collecting racial ethnic data?

The information is helpful to see if you need to do outreach to any particular groups of people that may be underrepresented in your household applications for educational benefits when compared to your actual population. This may help to identify whether perhaps language interpreters are needed, etc to reach more households.
There are two reporting categories: ethnicity and race. Each individual will fall into one of two ethnicity categories and one or more race categories.

For ethnicity, an individual is either Hispanic or Latino or not Hispanic or Latino.

Hispanic or Latino is defined as: A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term “Spanish origin” can be used in addition to “Hispanic or Latino.”

Individuals may indicate more than one race category.
Racial ethnic data may be obtained through a variety of methods. The preferred method is when the household self reports this information on a free and reduced-price application. Other methods that may be used include visual identification or other records such as enrollment or MARSS data.
The next section we will discuss is reasonable accommodations for students with special dietary needs. This will be a brief overview of special dietary needs.
First let’s define what a disability is. It is an impairment that is physical or mental that limits one or more major life activities. Examples: Orthopedic/visual/speech/hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, specific learning disabilities, tuberculosis, diabetes, heart conditions and food anaphylaxis. Recognized disabilities are based on Section 504 and Individuals with Disabilities Education Act (IDEA) legislation.
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In terms of responsibilities, a school must ensure that a child with a disability has equal access to participate.

This could come in the form of physical access to the building, procedural access through forms and interpreters or accommodations to the diet.

Schools are required to accommodate students with disabilities that affect the diet, as prescribed by a licensed physician. Note that this was just expanded to include nurse practitioners and physician assistants as well.
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The physician needs to determine what the disability is, how it affects the diet, the foods to be omitted and the foods to be substituted.

General food allergies or intolerances are not deemed to be a disability, but it is up to the licensed physician, nurse practitioner or physician assistant to determine.

For milk substitutions, there are special regulations that apply. Refer to the MDE website for more information.
Here is a snapshot of the Special Diets section of the MDE website.
The next area covers how to receive a complaint and resolve conflict related to discrimination.
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Anyone who participates or wants to participate in the program has a right to file a complaint within 180 days of the alleged discrimination. Note that the only complaints of discrimination that must follow the procedures discussed here are for the federally protected classes. Other complaints of discrimination outside of the protected classes should be handled through the appropriate school channels.

Individuals can submit complaints locally, at the state or federal level.
Individuals may submit a written, verbal or observed complaint. They may also submit anonymous complaints. The complaint can come from any area of program operation.
Handing Civil Rights Complaints

STEP 1: Document the Complaint

– Name, address, and phone number of complainant.
– Specific name and location of entity delivering the benefit or service.
– The nature of the incident, action, or method of administration that led the complainant to feel discriminated against.
– The basis on which the complainant feels discrimination exists (race, color, national origin, sex, etc.).
– The names, titles, business addresses, and phone numbers of persons who may have knowledge of the discriminatory action.
– The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

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The first step is to document the complaint with the information listed on the slide.
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The second step is to contact either USDA or the Minnesota Department of Education within three days of receiving a complaint.
Handling Civil Rights Complaints

• Step 3: Maintain Records
• Have a central location where copies of Civil Rights complaints will be documented and kept
  – Agencies should consider documenting all complaints in Complaint Log or on Complaint Forms

• Agencies may provide complaint form to:
  – Any individual wishing to make a complaint
  – Person receiving verbal or phone complaint

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Third, ensure that you maintain records of any incidents.
In terms of resolving conflict the USDA recommends Alternative Dispute Resolution (ADR), where a neutral third party acts to help resolve the issue.

Additional information on this topic is available on the website listed on the slide.

Visit the following website for more information: [http://www.fas.usda.gov/Admin/civilrights/conflictres.asp](http://www.fas.usda.gov/Admin/civilrights/conflictres.asp)
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The final topic we will discuss is resolution of noncompliance.
Resolution of Non-Compliance

- A factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines is not being adhered to.

- There are no “minor” or “major” categories of noncompliance. All instances of non-compliance are considered equally.
  - No matter the level or severity of noncompliance, it must be reported.

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Resolution of noncompliance means not following the civil rights requirements. All issues of noncompliance need to be reported to MDE or USDA.
Some examples of non-compliance with civil rights requirements include:

1. Not allowing a certain individual to apply for program benefits based on one of the protected classes.
2. Serving lunch to a child of one race but serving only a snack to a child of another race.
3. Serving breakfast in some schools but not in other schools due to a high proportion of minority students in one school.
Resolution of Non-Compliance

- If non-compliance is indicated, a corrective action plan must be implemented immediately to achieve voluntary compliance within 60 days.

- Corrective Action Plan: plan describing the agency’s actions to be taken to resolve non-compliance with civil rights requirements.

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For any issues of non-compliance with Civil Rights, corrective action should be taken immediately so that the issue is resolved within 60 days.
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Under Title IX and Section 504/ADA (Americans with Disabilities Act) it is required that every Local Education Agency (LEA) receiving federal financial assistance designate an employee to receive complaints. This person should understand the proper process to follow in the event of a complaint.

Civil Rights Coordinator within Your School

Agencies must designate an employee who is responsible for USDA Civil Rights issues, and:

- This individual must be designated to receive complaints
- This individual should be identified to all employees
- The designated person should know who to contact if Civil Rights issues arise
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All questions related to Civil Rights should be directed to the Minnesota Department of Education.
All staff members who work with the school nutrition programs should receive this training including office, cafeteria and kitchen staff. Documentation should be maintained on an annual basis to show that the civil rights training requirement has been met. If a live training is conducted, a sign-in sheet should be maintained. If this powerpoint is shared with staff, an accompanying sheet should include the signature of the individual and the date completed.